

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:04cr250

UNITED STATES OF AMERICA

vs.

MONICA NICOLE FLOYD (3)

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ORDER


THIS MATTER is before the Court upon motion of the defendant pro se for a reduction of sentence based on the retroactive amendments to the United States Sentencing Guidelines relating to crack cocaine. (Doc. No. 556).

In recognition of the defendant's substantial assistance, the government withdrew its 21 U.S.C. § 851 Notice at the sentencing hearing, but amended its motion for downward departure to remove the reference 18 U.S.C. § 3553(e). (Doc. No. 411: Statement of Reasons at 5). The defendant was then sentenced to 120 months' imprisonment pursuant to the mandatory minimum sentence prescribed in 21 U.S.C. § 841(b)(1)(A), based on her plea to conspiracy to possess with intent to distribute 50 grams or more of a mixture and substance containing cocaine base. (Doc. No. 104: Indictment; Doc. No. 265: Plea Agreement; Doc. No. 410: Judgment; Doc. No. 411: Statement of Reasons). Accordingly, the change in the guidelines does not affect on the defendant's sentence. Neal v. United States, 516 U.S. 284, 296 (1996) (retroactive amendment to guidelines does not alter statutory mandatory minimum).

IT IS, THEREFORE, ORDERED that the defendant's motion is **DENIED**.

The Clerk is directed to certify copies of this order to the defendant, the Community Defender, the United States Attorney, the United States Marshals Service, and the United States Probation Office.

Signed: March 24, 2008


Robert J. Conrad, Jr.
Chief United States District Judge

